



Reprinted
February 24, 2009

HOUSE BILL No. 1626

DIGEST OF HB 1626 (Updated February 23, 2009 4:38 pm - DI 97)

Citations Affected: IC 27-1; IC 27-14; IC 27-15.

Synopsis: Municipality insurance. Allows four or more municipalities to form a domestic mutual insurance company to insure risks related to municipalities.

Effective: July 1, 2009.

Fry

January 16, 2009, read first time and referred to Committee on Insurance.
February 19, 2009, amended, reported — Do Pass.
February 23, 2009, read second time, amended, ordered engrossed.

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HB 1626—LS 7459/DI 97+



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1626

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-1-6-0.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 0.4. As used in this chapter with respect to a**
4 **corporation described in section 1(b) of this chapter, "corporate**
5 **officer" or "incorporator" refers to the chief executive or chief**
6 **financial officer of a municipality described in section 1(b) of this**
7 **chapter.**
8 SECTION 2. IC 27-1-6-0.6 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2009]: **Sec. 0.6. As used in this chapter, "municipality" has the**
11 **meaning set forth in IC 36-1-2-11.**
12 SECTION 3. IC 27-1-6-1 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2009]: **Sec. 1. (a) Except as provided in**
14 **subsection (b), any number of natural persons, not less than seven (7),**
15 **all of whom are eighteen (18) years of age or older, at least a majority**
16 **of whom are residents of the state of Indiana and citizens of the United**
17 **States, may form a corporation under the provisions of this chapter for**

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the purpose of making any kind or kinds of insurance described in any one (1) class set out in IC 27-1-5-1, other than reciprocal, farm mutual, fraternal, and assessment insurance, by complying with the provisions of this chapter.

(b) Four (4) or more Indiana municipalities, represented by at least seven (7) incorporators, may form a corporation as a domestic mutual company under this chapter for purposes of making any kind or kinds of insurance described in any one (1) class set out in IC 27-1-5-1 (other than reciprocal, farm mutual, fraternal, and assessment insurance) available to Indiana municipalities.

SECTION 4. IC 27-1-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. **(a) This section does not apply to a domestic mutual company described in section 1(b) of this chapter.**

~~(a)~~ **(b)** Except as provided in subsection ~~(b)~~, **(c)**, a domestic mutual company that organized before July 1, 1977, must maintain a surplus of not less than two hundred fifty thousand dollars (\$250,000). This subsection does not apply to a standard farm mutual insurance company that is organized under IC 27-5 (before its repeal) or IC 27-5.1.

~~(b)~~ **(c)** A domestic mutual company that organized before July 1, 1977, must maintain a surplus of not less than:

- (1) seven hundred fifty thousand dollars (\$750,000), if it markets one (1) or more kinds of insurance under both Class II and Class III, other than Class II(k) insurance;
- (2) one million dollars (\$1,000,000), if it markets one (1) or more kinds of insurance under Class II, including Class II(k) insurance;
- or
- (3) one million dollars (\$1,000,000), if it markets one (1) or more kinds of insurance under both Class II and Class III, including Class II(k) insurance.

~~(c)~~ **(d)** A domestic mutual company that organized after June 30, 1977, must maintain a surplus of not less than one million two hundred fifty thousand dollars (\$1,250,000). However, when it organizes, it must:

- (1) have a surplus of not less than two million dollars (\$2,000,000);
- (2) for the one (1) or more kinds of insurance under Class I that it intends to market, have received applications for insurance from not less than four hundred (400) persons, each application for an amount not less than one thousand dollars (\$1,000), and have

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received the first year's premium due on a policy to be issued on each such application; and
 (3) for the one (1) or more kinds of insurance under Class II or Class III that it intends to market, have received applications for insurance covering not less than eight hundred (800) separate risks in not less than forty (40) policies to be issued to not less than forty (40) members, and have received premiums amounting to not less than one hundred thousand dollars (\$100,000) for those policies.

~~(d)~~ (e) A domestic mutual company must deposit with the department in cash or in obligations of the United States:

- (1) twenty-five thousand dollars (\$25,000), if it organized before June 30, 1955;
- (2) fifty thousand dollars (\$50,000), if it organized after June 29, 1955, and before March 7, 1967; or
- (3) one hundred thousand dollars (\$100,000), if it organized after March 6, 1967.

This subsection does not apply to a standard farm mutual insurance company that is organized under IC 27-5 (before its repeal) or IC 27-5.1.

~~(e)~~ (f) If the commissioner determines that the continued operation of a domestic mutual company may be hazardous to the policyholders or the general public, the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to increase the insurer's capital and surplus based on the type, volume, and nature of the business transacted.

SECTION 5. IC 27-1-6-15.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 15.1. (a) A domestic mutual company described in section 1(b) of this chapter must maintain a surplus of at least one million two hundred fifty thousand dollars (\$1,250,000). However, when the company organizes, the company must:**

(1) have:

(A) a surplus of at least two million dollars (\$2,000,000); and

(B) applications for insurance from at least twenty (20) municipalities, each application for an amount of at least fifty thousand dollars (\$50,000);

(2) for the one (1) or more kinds of insurance under Class I that the company intends to market, have received:

(A) applications for insurance from at least one hundred (100) individuals, each application for an amount of at

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1 least five thousand dollars (\$5,000); and
 2 **(B) the first year's premium due on a policy to be issued on**
 3 **each application; and**
 4 **(3) for the one (1) or more kinds of insurance under Class II**
 5 **or Class III that the company intends to market, have**
 6 **received:**
 7 **(A) applications for insurance covering at least forty (40)**
 8 **policies to be issued; and**
 9 **(B) premiums amounting to at least five hundred thousand**
 10 **dollars (\$500,000) for the policies.**

11 **(b) A domestic mutual company described in section 1(b) of this**
 12 **chapter shall deposit with the department, in cash or in obligations**
 13 **of the United States, one hundred thousand dollars (\$100,000).**

14 **(c) If the commissioner determines that the continued operation**
 15 **of a domestic mutual company described in section 1(b) of this**
 16 **chapter may be hazardous to the policyholders or the general**
 17 **public, the commissioner may, upon the commissioner's**
 18 **determination, issue an order requiring the insurer to increase the**
 19 **insurer's capital and surplus based on the type, volume, and nature**
 20 **of the business transacted.**

21 SECTION 6. IC 27-1-12-11 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) After the
 23 department has ascertained the net reserve value of all policies (as
 24 defined in section 9 of this chapter) or the reserve liabilities (as defined
 25 in section 10 of this chapter) of any life insurance company organized
 26 and doing business in this state, the department shall notify said
 27 company of the amount or amounts thereof. Within sixty (60) days after
 28 the date of such notification, the officers of such company shall deposit
 29 with the department, solely for the security and benefit of all its
 30 policyholders, assets in an amount, invested in accordance with section
 31 2 of this chapter (except paragraph 20 of section 2(b) of this chapter)
 32 which together with the assets already deposited with the department
 33 and such additional assets as may be deposited by said company with
 34 other states or governments, pursuant to the requirements of the laws
 35 of such other states or governments in which said company is doing
 36 business, shall be not less than the lesser of the amount of such reserve
 37 value or reserve liabilities or the amount provided under subsection (f).
 38 No life insurance company organized under this article or any other law
 39 of this state shall be required to make such deposit until the amount
 40 prescribed by this subsection exceeds the amount deposited by said
 41 company under IC 27-1-6-14, ~~or~~ IC 27-1-6-15, **or IC 27-1-5-15.1.**
 42 Investments in real estate shall be deposited in the form of satisfactory

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1 evidences of ownership. The deposit requirement in relation to policy
 2 loans and bank deposits shall be considered fulfilled by the inclusion
 3 of such item in the company's annual statement, but subject to the right
 4 of the company at any time, and the obligation of the company on
 5 demand of the department, to file with the department a certificate as
 6 to the amount of such item.

7 (b) If the department in the course of the year ascertains that the net
 8 reserve value of a company's policies (as defined in section 9 of this
 9 chapter) or its reserve liabilities (as defined in section 10 of this
 10 chapter) exceeds such company's deposits as required by subsection
 11 (a), it may require such company within sixty (60) days to increase its
 12 deposit to the required amount.

13 (c) Nothing in this article shall prevent the deposit of bonds,
 14 mortgages, or other securities which meet the investment requirements
 15 of a foreign or alien state or country, to an amount not exceeding the
 16 amount of the reserves on policies issued to residents of, and to
 17 corporations doing business in, such state or country. If, pursuant to the
 18 law of a foreign or alien state or country in which an Indiana life
 19 insurance company is doing business, securities belonging to such a
 20 company are required to be deposited within the boundaries of such
 21 foreign or alien state or country, credit for the amount of such deposit,
 22 not exceeding the amount of the reserves on policies issued to residents
 23 of, and to corporations doing business in, such foreign or alien state or
 24 country, may be taken by the company as an offset against its deposits
 25 required under this article.

26 (d) If, pursuant to the law of a foreign or alien state or country, a life
 27 insurance company domiciled therein is not permitted a reserve credit
 28 for reserves maintained by a reinsurer foreign to such a state or
 29 country, except on the condition that the amount of such reserve be
 30 deposited with the insurance supervisory official of such state or
 31 country, a deposit credit for the amount of such reserves so deposited
 32 shall be allowed a domestic life insurance company accepting
 33 reinsurance from companies domiciled in such state or country.

34 (e) Any deposit of assets with the department pursuant to any law
 35 superseded by this chapter shall, prior to the first deposit date
 36 contemplated in subsection (a), be continued with the department and
 37 otherwise be subject to this section.

38 (f) The amount of the deposit, except as otherwise provided in
 39 subsection (a), shall be one million dollars (\$1,000,000) excluding
 40 policy loans and bank deposits, or such greater amount as the
 41 department deems necessary to protect the interests of the
 42 policyholders of a particular company by an order to the company to

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1 deposit additional amounts under this section.

2 (g) Each company:

3 (1) must report to the department each new asset acquisition to
4 establish its eligibility for investment under the numbered
5 categories of permissible investments under section 2 of this
6 chapter at such regular intervals, within the time limit following
7 each interval and on the forms as the department may require,
8 without complying with IC 4-22-2; and

9 (2) when ordered by the department, shall make any additional
10 report relating to:

11 (A) the category of eligibility, the characteristics, or the
12 amount of any investment; or

13 (B) the amount of the assets of the company in any category;
14 calculated under the rules applied for annual statement purposes.

15 SECTION 7. IC 27-14-3-6 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as
17 provided in subsection (b), an MIHC:

18 (1) has and may exercise all the rights and privileges of insurance
19 companies formed under this title; and

20 (2) is subject to all the requirements and regulations imposed
21 upon insurance companies formed under this title.

22 (b) The exceptions referred to in subsection (a) are as follows:

23 (1) An MIHC does not have the right or privilege to write
24 insurance (except through an insurance company subsidiary) and
25 is not subject to any requirement or rule adopted under IC 4-22-2
26 relating to the writing of insurance.

27 (2) An MIHC is not subject to the deposit requirement in
28 ~~IC 27-1-6-15(d)~~ **IC 27-1-6-15(e) or IC 27-1-6-15.1(b).**

29 (3) An MIHC is not subject to any statute or rule adopted under
30 IC 4-22-2 that is imposed upon insurance companies formed
31 under this title to the extent that the statute or rule is in conflict
32 with this article.

33 (4) An MIHC is not subject to the investment requirements under
34 IC 27-1-12 or IC 27-1-13 that limit or restrict investments in
35 subsidiaries.

36 (5) An MIHC is not subject to risk-based capital requirements
37 under IC 27-1-36.

38 (6) An MIHC is not subject to a requirement under IC 27 if the
39 commissioner determines by order or rule adopted by the
40 commissioner under IC 4-22-2 that the requirement does not
41 apply to the MIHC.

42 SECTION 8. IC 27-15-14-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If a domestic mutual insurance company:

(1) is insolvent, as defined in IC 27-9-1-2(l);

(2) does not meet the **applicable** minimum surplus requirements of IC 27-1-6-15 **or IC 27-1-6-15.1**; or

(3) in the judgment of the commissioner, is in a hazardous financial condition;

its board of directors may adopt, and the commissioner may approve, any plan of conversion and amendment to the articles of incorporation that, on the effective date of the conversion, would provide for the former mutual to have paid-in capital stock and surplus in an amount not less than the minimum requirements of IC 27-1-6-14(c) and IC 27-1-6-14(e) and an RBC level greater than its company action RBC level.

(b) The commissioner may allow waivers or material modifications of the requirement to give any notices to members and policyholders, to obtain member approval of the proposed plan of conversion or amendment to the articles of incorporation of the converting mutual, or to distribute consideration to members if the value of a converting mutual described in subsection (a) does not in the judgment of the commissioner warrant any such notices, approvals, or distribution under the circumstances, including the expenses involved in a distribution of consideration.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1626, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1626 as introduced.)

FRY, Chair

Committee Vote: yeas 7, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1626 be amended to read as follows:

Page 2, line 5, delete "One (1)" and insert "**Four (4)**".

Page 2, line 5, after "municipalities" insert ", **represented by at least seven (7) incorporators,**".

(Reference is to HB 1626 as printed February 20, 2009.)

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